

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

)	
KATHLEEN P. MULLINIX,)	
)	
Plaintiff,)	
)	Civil Action
v.)	No. 04-12684-WGY
)	
KIKI BOGORAD-GROSS and)	
LEONARD P. BOGORAD, as They)	
Are Executors of the Will of)	
Lawrence Bogorad,)	
)	
Defendants.)	
)	

DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56 and LR 56.1, Defendants Kiki Bogorad-Gross (“K. Bogorad-Gross”) and Leonard Bogorad (“L. Bogorad”), as Executors of the Will of Lawrence Bogorad (collectively, “Defendants”), by their attorneys, Sullivan & Worcester LLP, hereby oppose the motion of the Plaintiff, Kathleen P. Mullinix (“Mullinix” or “Plaintiff”), for partial summary judgment. Plaintiff’s motion for partial summary judgment must be denied. In the event that Plaintiff establishes the Defendants’ liability for renovation costs or maintenance fees for the Plaintiff’s cooperative apartment located at 1050 Fifth Avenue (“Apartment”), the estate of Lawrence Bogorad (“Estate”), as a matter of law, acquires an ownership interest in the cooperative shares and proprietary lease for the Apartment by constructive or resulting trust in an amount proportionate to the aggregate contribution by Bogorad and the Estate.

Plaintiff's arguments not only ignore the relevant New York law governing constructive and resulting trusts, but also undermine and contradict her own pleadings that so heavily rely

upon Bogorad's allegedly significant personal and financial contributions towards the purchase costs of the Apartment. Accordingly, this Court should deny Plaintiff's motion for partial summary judgment.

Respectfully submitted,

KIKI BOGORAD-GROSS and
LEONARD P. BOGORAD, as
they are the Executors of the Will
of Lawrence Bogorad,
By their attorneys,

June 30, 2006

/s/ Lisa M. Hodes

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Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on June 30, 2006.

/s/ Lisa M. Hodes